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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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OFFICE OF PETITIONS

In re Application of
Bradford Evan Gliner et al.
Application No. 09/978,134
Filed: October 15, 2001
Attorney Docket No. 337348021US
Title: SYSTEMS AND METHODS FOR
AUTOMATICALLY OPTIMIZING
STIMULUS PARAMETERS AND
ELECTRODE CONFIGURATIONS FOR
NEURO-STIMULATORS

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. §1.137(F)

This is a decision on the renewed petition filed April 14, 2004, pursuant to 37 C.F.R. §1.137(b¹), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

- (1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication²;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
- (3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

On March 18, 2004, the original petition was filed with the Office, which was dismissed via the mailing of a decision on March 29, 2004, for failure to set forth that the instant nonprovisional application is the subject of an application filed in either a foreign country or under a multinational agreement, and for failure to provide notification of the filing of the foreign or international application.

¹ The petition is properly treated as a petition under 37 C.F.R. §1.137(f).

² See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at <http://www.uspto.gov/web/forms/index.html>.

With the renewed petition, Petitioner has established that the instant nonprovisional application is the subject of an application filed in an international application on October 15, 2002. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an international application.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of an application under a multilateral international agreement that requires publication of applications 18 months after filing.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of the international filing, paid the petition fee, and has made the proper statement of unintentional delay. Petitioner has further submitted a notice of rescission of previous nonpublication request.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of the international filing within 45 days after the date of filing of such international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 12, 2004 accompanies this decision on petition.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011.



Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office